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**RE: The Postal Regulatory Commission Notice of Proposed Rulemaking to change its
Freedom of Information Act Regulation, 39 CFR Part 3004, Docket No. 2016-30905**

We offer these comments on behalf of the National Archives and Records Administration's Office of Government Information Services (OGIS) regarding the Postal Regulatory Commission Notice of Proposed Rulemaking to change its Freedom of Information Act Regulation, 39 CFR Part 3004, Docket No. 2016-30905.

We commend the Postal Regulatory Commission (PRC) for reviewing its disclosure policies and issuing its proposed rule for FOIA regulations, and welcome the opportunity to comment on the proposal.

OGIS, created by Congress in the OPEN Government Act of 2007, has the statutory mandate under the Freedom of Information Act (FOIA) to offer mediation services to resolve disputes between FOIA requesters and agencies, review agency FOIA policies, procedures, and compliance, and identify procedures and methods for improving FOIA compliance. As part of our compliance mission, we comment on proposed new and updated agency FOIA regulations and other notices related to FOIA. The FOIA Improvement Act of 2016 requires that agencies review and issue FOIA regulations to ensure consistency with the amended statute and that the

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regulations include procedures for engaging in dispute resolution through the FOIA Public Liaison and OGIS.

We submit the following comments:

§ 3004.43 Response to requests.

We appreciate you including information regarding the ability of the requester to seek dispute resolution services from the agency FOIA Public Liaison or OGIS in the case of a denial in whole or in part in § 3004.43(d)(4). We note, however, that the statute requires requesters to be notified of the availability of dispute resolution services in the case of an “adverse determination” (5 U.S.C. § 552a(6)(A)(i)(III)), which includes applying exemptions and fee assessment and scope of search issues. We recommend that you revise your regulation accordingly.

§3004.44 Appeals

We recommend that you update § 3004.44(c)(1) to comply with guidance from OIP directing agencies to alert FOIA requesters of their right to seek OGIS’s dispute resolution services as a nonexclusive alternative to litigation as part of the agency’s appeal determination (<http://www.justice.gov/oip/foiapost/2010foiapost21.htm>). We also recommend that you update this subsection to improve understanding of OGIS’s dispute resolution services, and PRC’s role in the process:

Specifically, we recommend that §3004.44(c)(1) read as follows (additional text in bold and italics):

The Commission will grant or deny the appeal in writing within 20 days (excluding Saturdays, Sundays, and legal holidays) of the date the appeal is received. If on appeal the denial of the request for records is upheld, the Commission will notify the requester ***of the availability of dispute resolution services from the Office of Government Information Services as a non-exclusive alternative to litigation and*** the provisions for judicial review of that determination pursuant to 5 U.S.C. 552(c). ***Dispute resolution is a voluntary process. If the Commission participates in the dispute resolution services***

provided by the Office of Government Information Services, we will actively engage as a partner to the process in an attempt to resolve the dispute.

This language is similar to language suggested by the Department of Justice (DOJ) in Section VIII(d) of the Template for Agency FOIA Regulations (<https://www.justice.gov/oip/template-agency-foia-regulations>).

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